

MEMORANDUM

Agenda Item No. 8(L)(1)

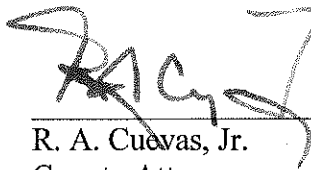
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 8, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution amending
Resolution No. 75-05 which
authorizes the execution of an
amendment to the road
transfer agreement between
Miami-Dade County and the
Village of Palmetto Bay

The accompanying resolution was prepared by the Public Works and Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Lynda Bell.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp

Memorandum



Date: November 8, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in dark ink, appearing to read "Carlos A. Gimenez", written over the name in the "From:" field.

Subject: Resolution Amending Resolution No. 75-05 which Authorizes the Execution of an Amendment to the Road Transfer Agreement Between Miami-Dade County and the Village of Palmetto Bay

Recommendation

It is recommended that the Board of County Commissioners (BCC) amend Resolution 75-05 which authorized the execution of a road transfer agreement between Miami-Dade County and the Village of Palmetto Bay, authorize the County Mayor or County Mayor's Designee to execute an amendment to the road transfer agreement transferring jurisdiction, ownership and responsibility for that portion of SW 97 Avenue between SW 184 Street and Northbound US-1 to the Village of Palmetto Bay, approve the official Right-of-Way Map, and authorize the recording thereof among the Public Records of Miami-Dade County, Florida. The Public Works and Waste Management Department (PWWM) has no objection to this road being transferred.

Scope

The road to be transferred to the Village of Palmetto Bay is located within Commission District 8.

Fiscal Impact/Funding Source

There is a reduction of the maintenance costs of approximately \$980 annually as a result of this transfer of road jurisdiction.

Track Record/Monitor

PWWM is the entity overseeing this item and the person responsible is Mr. Wayne Sutton, PLS, Section Head, Right-of-Way Engineering Section.

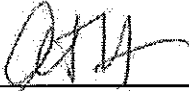
Background

The Village of Palmetto Bay, by Resolution No. 2012-30, has requested a transfer of road jurisdiction of that portion of SW 97 Avenue between SW 184 Street and Northbound US-1 within the corporate limits of the Village. The existing road transfer agreement between the Village and the County exempted this portion of the road from the transfer. Accordingly, the requested transfer requires the amendment of Resolution No. 75-05 to include the subject road, and the execution of an amended road transfer agreement. The PWWM Director has no objection to the jurisdictional transfer of such Road to the Village.

It is therefore recommended that the attached Amended Road Transfer Agreement be approved by the BCC, and executed by the County Mayor, or the County Mayor's designee. It is further recommended that the attached Road Right-of-Way Map be approved by the BCC, and recorded in the Public Records of Miami-Dade County, Florida, after which it will be deemed transferred to the Village of Palmetto Bay.

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Page No. 2

Both the original drawing and the reproducible of the Right-of-Way Map are to be attested by the Deputy Clerk of the Board on behalf of the BCC and returned to PWWM for recording in the Public Records of Miami-Dade County, Florida.



Alina T. Hudak
County Manager/Deputy Mayor

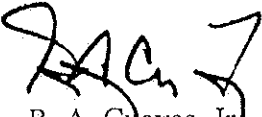


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 8, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(L)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(1)

11-8-12

RESOLUTION NO. _____

RESOLUTION AMENDING RESOLUTION NO. 75-05 WHICH AUTHORIZES THE EXECUTION OF AN AMENDMENT TO THE ROAD TRANSFER AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE OF PALMETTO BAY, AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE AN AMENDED AGREEMENT TRANSFERRING JURISDICTION, OWNERSHIP AND RESPONSIBILITY FOR THAT PORTION OF SW 97 AVENUE BETWEEN SW 184 STREET AND NORTHBOUND US-1 WITHIN THE CORPORATE LIMITS OF THE VILLAGE, APPROVING THE OFFICIAL RIGHT-OF-WAY MAP, AND AUTHORIZING THE RECORDING THEREOF AMONG THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, this Board adopted Resolution No. 75-05 on January 31, 2005, authorizing the transfer of certain roads through the execution of a Road Transfer Agreement attached hereto and made a part thereof as Exhibit "A"; and

WHEREAS, the Village of Palmetto Bay (the Village) has requested the transfer of that portion of SW 97 Avenue between SW 184 Street and Northbound US-1 (the Road) within the corporate limits of the Village through the adoption of a Village Council Resolution No. 2012-30 which was previously exempted from the Road Transfer Agreement; and

WHEREAS, the Miami-Dade County Public Works and Waste Management Department has recommended that an Amendment to the Road Transfer Agreement attached hereto as Exhibit "B" to this resolution, be approved by the Board and executed by the County Mayor or his designee; and

WHEREAS, the Miami-Dade County Public Works and Waste Management Department has recommended that an official Right-of-Way Map be approved and filed for recordation to transfer jurisdiction, ownership and responsibility of the Road as depicted in Exhibit "C" to this resolution; and

WHEREAS, pursuant to Section 335.0415 of the Florida Statutes, public roads may be transferred by mutual agreement of the affected governmental entities; and

WHEREAS, pursuant to Section 337.29 of the Florida Statutes, title to public roads transferred in this manner shall be effective upon the recording of a deed or a right-of-way map in the Public Records of Miami-Dade County; and

WHEREAS, Section 1.01(1) of the Dade County Home Rule Charter gives Miami-Dade County the responsibility to regulate traffic; and

WHEREAS, pursuant to Section 2-96.1 of the Miami-Dade County Code, the Miami-Dade County Public Works and Waste Management Department has the exclusive jurisdiction to regulate vehicular traffic in Miami-Dade County, including within municipalities; and

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NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. the foregoing recitals are incorporated and adopted herein; and

Section 2. that this Board amends Resolution 75-05 to allow the transfer of the Road;
and

Section 3. that this Board approves the road transfer of jurisdiction between the County and the Village; and

Section 4. that this Board authorizes the County Mayor or the County Mayor's designee to execute the amendment to the road transfer agreement in substantially the form attached hereto, with the Village transferring jurisdiction, ownership and responsibility for the Road within the corporate limits of the Village; and

Section 5. that this Board approves the official Right-of-Way Map as the instrument of conveyance for the Road; and

Section 6. that this Board authorizes its Deputy Clerk to sign said Right-of-Way Map and affix thereto the Seal of this Board, for and behalf of Miami-Dade County; and

Section 7. pursuant to Resolution No. R-974-09, (a) directs the County Mayor or County Mayor's designee to record the instrument of conveyance approved herein in the Public Records of Miami-Dade County, b) to provide a recorded copy of said instrument to the Clerk of the Board within thirty (30) days of execution of said instrument, c) to attach and permanently store a recorded copy of said instrument together with this resolution, and (d) to deliver a recorded copy of said instrument to the Clerk of the Board of the Village.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of November, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Debra Herman

EXHIBIT "A"

ROAD TRANSFER AGREEMENT

Between

MIAMI-DADE COUNTY, FLORIDA

And

VILLAGE OF PALMETTO BAY

THIS AGREEMENT made and entered into this 31 day of January, 2004, by and between: MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the state of Florida, (the "COUNTY"), through its Board of County Commissioners,

AND

The VILLAGE OF PALMETTO BAY, a Florida municipal corporation existing under the laws of the state of Florida (the "VILLAGE").

WITNESSETH:

WHEREAS, certain public roads on the County Road System are within the municipal limits of the VILLAGE (hereinafter referred to as "Road Segments"); and

WHEREAS, the COUNTY and the VILLAGE are desirous of transferring the underlying title and responsibility for the planning, design, construction, improvement and maintenance for the Road Segments from the COUNTY to the VILLAGE; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual Agreement of the COUNTY and the VILLAGE; and

WHEREAS, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the government entity to which such roads have been transferred upon the recording of a right-of-way map in the public records; and

WHEREAS, the COUNTY and the VILLAGE have determined that it is in the best interest of the parties that responsibility for the operation, maintenance, planning, design and construction of the Road Segments and of any future improvements thereto be transferred to the VILLAGE.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The above recitals are true and correct and incorporated herein.

2. The jurisdiction, ownership and control of all public roads within the corporate limits of the VILLAGE OF PALMETTO BAY of the "Road Segments" heretofore designated as part of the County road system prior to the effective date of this agreement are hereby transferred and conveyed to the Village road system, except for the following roads (which are hereafter referred to as "Exempt Roads"):

- (a) SW 136 Street from US-1 to Old Cutler Road east of SW 62 Avenue
- (b) SW 152 Street from US-1 to SW 67 Avenue
- (c) SW 168 Street from US-1 to Old Cutler Road
- (d) SW 184 Street from US-1 to Old Cutler Road
- (e) SW 97 Avenue from SW 184 Street to US-1
- (f) SW 87 Avenue from SW 184 Street to SW 144 Street
- (g) SW 77 Avenue from Old Cutler Road to SW 136 Street
- (h) Old Cutler Road from SW 184 Street to SW 136 Street
- (i) SW 67 Avenue from SW 152 Street to SW 136 Street

3. The right and responsibility to regulate traffic and determine appropriate measures for and provide traffic control devices such as traffic signals, signs and pavement markings, including road closures or traffic-calming devices and setting the hours and days that construction by any Department or Agency of the COUNTY in or on any public street is not transferred to the VILLAGE. The COUNTY retains jurisdiction over traffic engineering matters within the territorial area of Miami-Dade County including within municipalities, except state road rights of way.

4. The VILLAGE agrees to accept all legal rights, responsibilities and obligations with respect to the Road Segments, including but not limited to the planning, design, construction, improvement, and maintenance of the Road Segments.

5. The COUNTY shall remain responsible for the planning, design, construction, improvement, and maintenance of all stormwater drainage related functions of the Road Segments at the same level of service provided by UMSA until such time that the Miami-Dade County Commissioners approves the CITY's request for exemption (opt-out) of the Miami-Dade County Stormwater Utility.

6. The COUNTY shall remain responsible for any tort liability for any actions arising out of the COUNTY's operation and maintenance of the Road Segments prior to and up to the effective date of the transfer of such roadways.

7. The VILLAGE and the COUNTY agree that no indemnification or hold harmless agreement shall be in effect concerning any claims, demands, damages and causes of action that may be brought against either party pursuant to this Agreement. The VILLAGE and the COUNTY shall each individually defend any action or proceedings brought against their respective agencies pursuant to this Agreement and shall be individually responsible for all of their respective costs, attorneys fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees that may be entered as a result thereof.

8. The COUNTY shall provide the VILLAGE with all of the County's Engineering Division's Section Maps, which generally depict the rights-of-way.

9. The COUNTY agrees to meet with the VILLAGE regarding any issues involving completed roadway projects funded by Federal Emergency Management (FEMA) grants and Quality Neighborhood Improvement (QNIP) funds completed within 24 months of the date of this agreement and upon the Village Manager's request.

10. Upon execution of this Agreement, the County Manager and Village Manager shall determine a mutually agreeable date for the recordation and transfer of the Road Segments following the approval of this road transfer agreement by the Board of County Commissioners.

11. Whenever one of the parties to this Agreement desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, certified, return receipt requested, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

George M. Burgess
County Manager
County Manager's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2910
Miami, Florida 33128
Telephone: (305) 375-5311
Facsimile: (305) 375-4658

For the VILLAGE:

Charles Scurr
Village Manager
Village of Palmetto Bay
8950 SW 152 Street
Miami, FL 33157
Telephone: (305) 259-1234
Facsimile: (305) 259-1290

12. The VILLAGE and the COUNTY agree that this is the entire Agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement cannot be modified or amended without the express written consent of the parties. Accordingly, no modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity therewith.

13. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

14. The failure of either party to insist upon strict performance of any terms of this Agreement shall not be considered a waiver of any provisions set forth herein and shall not prevent enforcement of this Agreement.

15. Neither this Agreement nor any term or provision hereof or right hereunder shall be assignable by any parties and any attempt to make such assignment shall be void.

16. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

17. This Agreement shall be construed in accordance with the laws of the State of Florida and any proceedings arising in any matter pertaining to this Agreement shall, to the extent permitted by law, be held in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through the County Manager, authorized to execute same by Board action on the ____ day of _____, 2004, and the VILLAGE, signing by and through its Manager, authorized to execute same by Council action on the ____ day of _____, 2004.

(Signature page follows)

ATTEST:

VILLAGE OF PALMETTO BAY,
a municipal corporation

By [Signature]
Village Clerk

By [Signature]
Village Manager

04.16.04

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By [Signature]
Village Attorney

MIAMI-DADE COUNTY
a political subdivision of
the State of Florida
By its Board of County
Commissioners:

[Signature]
County Manager

Date: 2/9/05

ATTEST:
HARVEY RUVIN, CLERK

By [Signature]
Deputy Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By [Signature]
County Attorney

EXHIBIT "B"

AMENDMENT TO ROAD TRANSFER AGREEMENT

Between

MIAMI-DADE COUNTY, FLORIDA

And

VILLAGE OF PALMETTO BAY

THIS AMENDED AGREEMENT made and entered into this ____ day of _____, 2012, by and between: MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the state of Florida, (the "COUNTY"), through its Board of County Commissioners,

AND

The VILLAGE OF PALMETTO BAY, a Florida municipal corporation existing under the laws of the state of Florida (the "VILLAGE").

WITNESSETH:

WHEREAS, certain public roads on the County Road System are within the municipal limits of the VILLAGE (hereinafter referred to as "Road Segments"); and

WHEREAS, the COUNTY and the VILLAGE are desirous of transferring the underlying title and responsibility for the planning, design, construction, improvement and maintenance for the Road Segments from the COUNTY to the VILLAGE; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual agreement of the COUNTY and the VILLAGE; and

WHEREAS, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the governmental entity to which such roads have been transferred upon the recording of a right-of-way map in the public records; and

WHEREAS, the COUNTY and the VILLAGE have determined that it is in the best interest of the parties that responsibility for the operation, maintenance, planning, design and construction of the Road Segments and of any future improvements thereto be transferred to the VILLAGE.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The above recitals are true and correct and incorporated herein.
2. Paragraph 2 of the Road Transfer Agreement attached hereto as Exhibit "A" is hereby amended to delete the exemption of Paragraph 2(e), and therefore, SW 97 Avenue from SW 184 Street to Northbound US-1 shall be transferred to the Village of Palmetto Bay under the same terms and conditions of the other roads which have been transferred thereunder.
3. All other provisions of the Road Transfer Agreement shall remain in full force and effect,

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through the County Mayor, authorized to execute same by Board action on the ____ day of _____, 2012, and the VILLAGE, signing by and through its Manager, authorized to execute same by Council action on the 2nd day of April, 2012.

(Signature page follows)

ATTEST:

VILLAGE OF PALMETTO BAY,
a municipal corporation

By Melinda Alexandre
Village Clerk

By 
Village Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

BY: *James South*
Village Attorney

MIAMI-DADE COUNTY
a political subdivision of
the State of Florida
By its Board of County
Commissioners:

County Mayor

Date: _____

ATTEST:
HARVEY RUVIN, CLERK

By _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By _____
County Attorney

